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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,207	05/29/2001	Donald Gale	6802-82887	6159

7590   02/26/2003

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EXAMINER
YOUNG, JOHN L

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary	Application No.	Applicant(s)
	09/867,207	Gale et al.
	Examiner	Art Unit
	John Young	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ___3___ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Dec 10, 2002*   .

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *25-48* is/are pending in the application.

   4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *25-48* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some* c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

   a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

FINAL REJECTION

REQUEST FOR CONTINUED EXAMINATION (RCE)

1.   The request for continued examination (RCE) filed on 12/10/2002, paper#9, under

37 CFR 1.114 based on parent Application No. 09/433,613 is acceptable and an RCE has

been established. An action on the RCE follows:

DRAWINGS

2.   This application has been filed with drawings that are considered informal; however, said

drawings are acceptable for examination and publication purposes. The review process for

drawings that are included with applications on filing has been modified in view of the new

requirement to publish applications at eighteen months after the filing date of applications, or any

priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — Non-Statutory Type Double Patenting

3.   Rejections Maintained.

CLAIM REJECTIONS — 35 U.S.C. §112 ¶1

4.   Rejections Withdrawn.

REVISED CLAIM REJECTIONS

NONSTATUTORY DOUBLE PATENTING

5.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA

1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to

overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this

application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 45-48 are rejected under the judicially created doctrine of obviousness-type double

patenting as being unpatentable over claims 21-24 of U.S. Patent No. 6,334,107 to Gale et al.

(herein referred to as "Gale 6,334,107") in view of U.S. Patent No. 6,157,943 to Meyer.

Although the conflicting claims of the instant application are narrower and therefore are not

identical to corresponding claims of 6,334,107, the conflicting claims (i.e., claims 45-48) of the

instant application are not patentably distinct from claims 21-24 of Gale 6,334,107 in view of

Meyer; therefore, the instant application if allowed, would improperly extend the right to exclude

already granted in U.S. Patent to Gale 6,334,107.

As per claims 45-48 of the instant application, the subject matter claimed is fully

disclosed in U.S. Patent to Gale 6,334,107 (for example, see Gale 6,334,107 (col. 1, ll.

50-607)) in view of Meyer (the ABSTRACT; FIG. 1; FIG;. 3; FIG. 4; FIG. 5; col. 1, ll.

33-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; and

col. 7, ll. 1-45) and the application are claiming substantially common subject matter,

which amounts to an obvious variation of the subject matter claimed in Gale 6,334,107:

(1) claims 45-48 in the instant application substantially recite a broad system for

"managing a real estate unit by a real estate manager from a remote location. . . ." (2)

claims 21-24 of Gale 6,334,107 in view of the above cited disclosure of Meyer

substantially recite a narrow system for "managing a real estate unit by a real estate

manager from a remote location. . . ." Meyer (the ABSTRACT; FIG. 1; FIG;. 3; FIG. 4;

FIG. 5; col. 1, ll. 33-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col.

6, ll. 1-67; and col. 7, ll. 1-45) proposes remote website browser modifications that would

have applied to the system/method of Gale 6,334,107. It would have been obvious to a

person of ordinary skill in the art at the time of the invention to combine the disclosure of

Meyer with the teaching of Gale 6,334,107, because such combination would have

provided means for *"facility management systems via the Internet. . . ."* (see Meyer (col.

1, ll. 60-65)). Therefore, the differences in the claim language between the Gale

6,334,107 patent in view of the above cited disclosure of Meyer and the instant

application of <u>Gale</u> reside in the breadth of claim language of each; and the real estate unit

managing claim language of the instant <u>Gale</u> application is albeit broader however none-

the-less an obvious variation of the real estate unit managing claim language of the <u>Gale</u>

6,334,107 patent in view of <u>Meyer</u>. It would have been obvious to a person of

ordinary skill in the art at the time of the invention that the claim language of the <u>Gale</u>

6,334,107 patent in view of the above cited disclosure of <u>Meyer</u> would have been selected

in accordance with the broad system "managing a real estate unit by a real estate manager

from a remote location. . . ." because such selection would have provided broad means for

"managing a real estate unit from a remote location. The method includes the steps of

accessing a server from a remote location through a website of the server and

downloading a set of options regarding the managing of the rental unit form the website

to the remote location. The method further includes the steps of selecting at least one of

the options, uploading the selected from the remote location to the server and executing

the uploaded selected option by the server. . . ." (see <u>Gale</u> 6,334,107 (col. 1, ll. 40-60))

and because such combination would have provided means for *"facility management*

systems via the Internet. . . ." (see Meyer (col. 1, ll. 60-65)).   Furthermore, there is no

apparent reason why Applicant was prevented from presenting claims corresponding to

claims 45-48 of the instant application (during prosecution of the application which

matured into the <u>Gale</u> 6,334,107 patent. See MPEP § 804.

For the reasons stated above, independent claim 45 and dependent claims 46-48 in the

instant application to Gale et al., are rejected based on allowed claims 21-24 of Gale 6,334,107 in

view of the above cited disclosure of Meyers pursuant to the judicially created nonstatutory

double patenting doctrine grounded in public policy to prevent the unjustified or improper

timewise extension of the right to exclude.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

6.   Independent claims 25, 35 & 45 and dependent claims 26-34, 36-44 & 46-48 are rejected

under 35 U.S.C. §103(a) as being unpatentable over Apgar, IV 5,680,305 (10/21/1997) (herein

referred to as "Apgar") in view of Keithley 5,584,025 (12/10/19960) (herein referred to as

"Keithley") in view of Forrest et al. 6,049,781 (4/11/2000) (herein referred to as "Forrest") and

further in view of Hunt et al. 5,893,091 (4/6/1999) (herein referred to as "Hunt") and further in

view of Meyer 6,157,943 (12/5/2000) (herein referred to as "Meyer").

        As per claim 25, Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 14;

FIG. 16; col. 4, ll. 24-61; col. 6, ll. 9-21; col. 6, ll. 46-62; and col. 1, ll. 53-58) shows

elements that suggest "managing a real estate unit from a remote location, such method

comprising the steps of: accessing a server from a remote location . . . downloading . . . a

set of options regarding the managing of the real estate unit . . . to the remote location;

selecting at least one of the options . . . uploading the . . . selected option from the remote

location to the server; and executing the <u>computer program associated with the</u> selected

option <u>within</u> the server."

Apgar lacks an explicit recitation of: "downloading a <u>webpage containing a</u> set of

options regarding the managing of the real estate unit from the website to the remote

location . . . <u>embedding a subroutine within the webpage activated by selection of the</u>

<u>option that composes a message identifying a computer program within the server</u>

<u>associated with the selected option.</u> . . ." even though, <u>Apgar</u> (col. 6, ll. 30-57; and col.

15, ll. 24-40) suggests same.

<u>Keithley</u> (col. 9, ll. 4-27) discloses elements that suggest "accessing a server from

a remote location. . . ."

<u>Keithley</u> proposes remote server modifications that would have applied to the

method of <u>Apgar</u>. It would have been obvious at the time the invention was made to a

person having ordinary skill in the art to add the modifications taught by <u>Keithley</u> to

<u>Apgar</u>, because implementation of such modifications would have provided *"a method of*

acquiring and displaying real estate information. . . ." (see <u>Keithley</u> col. 4, ll. 10-25).

<u>Forrest</u> (col. 5, ll. 10-24; FIG. 1; and FIG. 13) shows *"LAN 12 may be*

implemented as a distributed network. . . ." It would have been obvious to one of

ordinary skill in the art at the time of the invention that *"LAN 12 may be*

implemented as a distributed network. . . ." would have been selected in accordance with

"a website of the server. . . ." because it was well known in the art at the time of the invention that a website was associated with the Internet which is a distributed network. Furthermore, Forrest (col. 5, ll. 10-24; col. 2, ll. 55-67; FIG. 1; and FIG. 13) proposes website modifications that would have applied to the method of Apgar. It would have been obvious to one of ordinary skill in the art at the time of the invention to add the website modifications of the method of Forrest to the method of Apgar because such modifications would have provided "the ability to closely track homes. . . ." (See Forrest (col. 2, ll. 55-67).

Hunt (col. 5, ll. 45-61; col. 6, ll. 60-67; col. 7, ll. 1-23; col. 8, ll. 15-67; col. 11, ll. 47-55; and col. 13, ll. 55-67) shows elements that suggest: "downloading a webpage containing a set of options regarding the managing of the real estate unit from the website to the remote location . . . embedding a subroutine within the webpage activated by selection of the option that composes a message identifying a computer program within the server associated with the selected option. . . ."

Hunt proposes webpage and subroutine modifications that would have applied to the method of Apgar. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Hunt with the teachings of Apgar because such combination would have provided means to "present the user with the option of viewing an associated webpage through a linked browser." (See Hunt (col. 5, ll. 45-50)).

Apgar lacks an explicit recitation of: "managing a real estate unit <u>by a real estate</u>

<u>manager</u> from a remote location . . . <u>providing a website for use for use by the real estate</u>

<u>manager in managing the real estate unit</u> . . . accessing a server <u>by the real estate manager</u>

from a remote location through <u>the</u> website of the server <u>provided for use by the real</u>

<u>estate manager. . . .</u>"

Meyer (the ABSTRACT; FIG. 1; FIG;. 3; FIG. 4; FIG. 5; col. 1, ll. 33-67; col. 2,

ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; and col. 7, ll. 1-45)

shows elements that suggest: "managing a real estate unit <u>by a real estate manager</u> from a

remote location . . . <u>providing a website for use for use by the real estate manager in</u>

<u>managing the real estate unit</u> . . . accessing a server <u>by the real estate manager</u> from a

remote location through <u>the</u> website of the server <u>provided for use by the real estate</u>

<u>manager. . . .</u>"

Meyer (the ABSTRACT; FIG. 1; FIG;. 3; FIG. 4; FIG. 5; col. 1, ll. 33-67; col. 2,

ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; and col. 7, ll. 1-45)

proposes remote website browser modifications that would have applied to the

system/method of Apgar.   It would have been obvious to a person of ordinary skill in the

art at the time of the invention to combine the disclosure of Meyer with the teaching of

Apgar, because such combination would have provided means for *"facility management*

systems via the Internet. . . ." (see Meyer (col. 1, ll. 60-65)).

As per claim 26, <u>Apgar</u> in view of <u>Keithley</u>, <u>Forrest</u>, <u>Hunt</u> and <u>Meyer</u> shows the method of claim 25. (See the rejection of claim 25 <u>supra</u>).

<u>Apgar</u> does not explicitly show "an identifier of a user to the server. . . ."

<u>Keithley</u> (col. 1, ll. 33-45) discloses elements that suggest "transferring an identifier of a user to the server."

<u>Keithley</u> proposes user ID modifications that would have applied to the method of <u>Apgar</u>. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add the modifications taught by <u>Keithley</u> to <u>Apgar</u>, because implementation of such modifications would have provided *"a method of acquiring and displaying real estate information. . . ."* (see <u>Keithley</u> col. 4, ll. 10-25).

As per claim 27, <u>Apgar</u> in view of <u>Keithley</u>, <u>Forrest</u>, <u>Hunt</u> and <u>Meyer</u> shows the method of claim 26. (See the rejection of claim 26 <u>supra</u>).

<u>Apgar</u> does not explicitly show "the identifier further comprises comparing the identifier with an identifier of an authorized user and granting access to a set of files when a match is found."

<u>Keithley</u> (col. 13, ll. 25-42; col. 1, ll. 33-45; col. 9, ll. 38-59; and col. 11, ll. 11-16) discloses elements that suggest "the identifier further comprises comparing the identifier with an identifier of an authorized user and granting access to a set of files when a match is found."

Keithley proposes user ID modifications that would have applied to the method of

Apgar. It would have been obvious at the time the invention was made to a person having

ordinary skill in the art to add the modifications taught by Keithley to Apgar, because

implementation of such modifications would have provided *"a method of acquiring and*

displaying real estate information. . . ." (see Keithley col. 4, ll. 10-25).

As per claim 28, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the

method of claim 27. (See the rejection of claim 27 supra).

Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG.

14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6,

ll. 9-21; and col. 6, ll. 46-62) shows elements that suggest "uploading monetary data from

a designated financial institution to the server."

Apgar does not explicitly show "uploading monetary data from a designated

financial institution to the server. . . ." even though, Apgar (FIG. 1; FIG. 6; FIG. 7; FIG.

8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47;

col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) suggests

"uploading monetary data from a designated financial institution to the server. . . ."

Keithley (col. 2, ll. 10-22; col. 7, ll. 9-17; and col. 10, ll. 20-28) discloses elements

that suggest "uploading monetary data from a designated financial institution to the

server. . . ."

Keithley proposes financial institution modifications that would have applied to the method of Apgar. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add the modifications taught by Keithley to Apgar, because implementation of such modifications would have provided *"a method of acquiring and displaying real estate information. . . ."* (see Keithley col. 4, ll. 10-25).

As per claim 29, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the method of claim 28. (See the rejection of claim 28 supra).

Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) shows elements that suggest "storing the monetary data in the set of files."

Apgar does not explicitly show "storing the monetary data in the set of files. . . ." even though, Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) suggests "storing the monetary data in the set of files. . . ."

Keithley (col. 2, ll. 10-22; col. 7, ll. 9-17; and col. 10, ll. 20-28) discloses elements that suggest "storing the monetary data in the set of files. . . ."

Keithley proposes storage modifications that would have applied to the method of Apgar. It would have been obvious at the time the invention was made to a person having

ordinary skill in the art to add the modifications taught by <u>Keithley</u> to <u>Apgar</u>, because

implementation of such modifications would have provided *"a method of acquiring and*

displaying real estate information. . . ." (see <u>Keithley</u> col. 4, ll. 10-25).

As per claim 30, <u>Apgar</u> in view of <u>Keithley, Forrest, Hunt</u> and <u>Meyer</u> shows the

method of claim 25. (See the rejection of claim 25 <u>supra</u>).

<u>Apgar</u> (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG.

14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6,

ll. 9-21; and col. 6, ll. 46-62) shows elements that suggest "providing a plurality of real

estate unit identifiers as options of the set of options."

<u>Apgar</u> does not explicitly show "providing a plurality of real estate unit

identifiers as options of the set of options. . . ." even though, <u>Apgar</u> (FIG. 1; FIG. 6; FIG.

7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13,

ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) suggests

"providing a plurality of real estate unit identifiers as options of the set of options."

<u>Keithley</u> (col. 2, ll. 10-22; col. 7, ll. 9-17; and col. 10, ll. 20-28) discloses elements

that suggest "providing a plurality of real estate unit identifiers as options of the set of

options."

<u>Keithley</u> proposes identifier modifications that would have applied to the method

of <u>Apgar</u>. It would have been obvious at the time the invention was made to a person

having ordinary skill in the art to add the modifications taught by <u>Keithley</u> to <u>Apgar</u>,

because implementation of such modifications would have provided *"a method of*

acquiring and displaying real estate information. . . ." (see <u>Keithley</u> col. 4, ll. 10-25).

As per claim 31, <u>Apgar</u> in view of <u>Keithley</u>, <u>Forrest</u>, <u>Hunt</u> and <u>Meyer</u> shows the

method of claim 25. (See the rejection of claim 25 <u>supra</u>).

<u>Apgar</u> (col. 22, ll. 20-30; col. 26, ll. 45-52; FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9;

FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; FIG. 21; col. 3, ll. 50-67; col. 13, ll. 44-47;

col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) shows elements that suggest

"providing a billing and cash entries selection for a real estate unit as an option of the set

of options."

<u>Apgar</u> does not explicitly show "providing a billing and cash entries selection for

a real estate unit as an option of the set of options. . . ." even though, <u>Apgar</u> (col. 22, ll.

20-30; FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG.

16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21;

and col. 6, ll. 46-62) suggests "providing a billing and cash entries selection for a real

estate unit as an option of the set of options."

<u>Forrest</u> (col. 9, ll. 43-48; col. 1, ll. 40-52; and col. 12, ll. 44-54) shows *"expense*

and billing information."

<u>Forrest</u> proposes *"expense and billing information"* modifications that would

have applied to the method of <u>Apgar</u>. It would have been obvious to one of ordinary skill

in the art at the time of the invention to add the *"expense and billing information"*

modifications of the method of <u>Forrest</u> to the method of <u>Apgar</u> because such

modifications would have provided *"the ability to closely track homes. . . ."* billing

status (See <u>Forrest</u> (col. 2, ll. 55-67).

As per claim 32, <u>Apgar</u> in view of <u>Keithley</u>, <u>Forrest</u>, <u>Hunt</u> and <u>Meyer</u> shows the

method of claim 25. (See the rejection of claim 25 <u>supra</u>).

<u>Apgar</u> (the ABSTRACT; col. 5, ll. 2-5; col. 5, ll. 12-19; col. 5, ll. 20-53; col. 16,

ll. 34-48; and col. 16, ll. 61-63) shows elements that suggest *"a printer or facsimile*

device to provide a hard copy report. . . ."

<u>Apgar</u> does not explicitly show "providing a reports selection as an option of

the set of options. . . ." even though, <u>Apgar</u> (the ABSTRACT; col. 5, ll. 2-5; col. 5, ll.

12-19; col. 5, ll. 20-53; col. 16, ll. 34-48; and col. 16, ll. 61-63) suggests "providing a

reports selection as an option of the set of options." It would have been obvious to one of

ordinary skill in the art at the time of the invention that the disclosure of <u>Apgar</u> (the

ABSTRACT; col. 5, ll. 2-5; col. 5, ll. 12-19; col. 5, ll. 20-53; col. 16, ll. 34-48; and col.

16, ll. 61-63) would have been selected in accordance with "providing a reports selection

as an option of the set of options. . . ." because such selection would have provided a

means for *"detailing and summarizing the analysis of the particular real estate."* (See

<u>Apgar</u> (col. 16 ll. 45-48).

As per claim 33, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the method of claim 25. (See the rejection of claim 25 supra).

Apgar (the ABSTRACT; col. 5, ll. 2-5; col. 5, ll. 12-19; col. 5, ll. 20-53; col. 16, ll. 34-48) shows elements that suggest *"a printer or facsimile device to provide a hard copy report. . . ."*

Apgar (col. 26, ll. 27-29) discloses *"OPERATING EXPENSES . . . utilities. . . ."*

Apgar does not explicitly show "providing a utilities selection as an option of the set of options. . . ."   even though, Apgar (col. 26, ll. 27-29) suggests same. It would have been obvious to one of ordinary skill in the art at the time of the invention that the disclosure of Apgar (col. 26, ll. 27-29) would have been selected in accordance with "providing a utilities selection as an option of the set of options. . . ." because such selection would have provided a means for *"detailing and summarizing the analysis of the particular real estate."* (See Apgar (col. 216 ll. 45-48).

As per claim 34, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the method of claim 25. (See the rejection of claim 25 supra).

Apgar (col. 16, ll. 61-63) shows elements that suggest "providing a system selection as an option of the set of options."

Apgar does not explicitly show "providing a system selection as an option of the set of options. . . ."   even though, Apgar (col. 16, ll. 61-63) suggests same. It would have been obvious to one of ordinary skill in the art at the time of the invention that the

disclosure of Apgar (col. 16, ll. 61-63) would have been selected in accordance with

"providing a system selection as an option of the set of options. . . ." because such

selection would have provided a means for *"detailing and summarizing the analysis of*

the particular real estate." (See Apgar (col. 216 ll. 45-48).

Claim 35 is rejected for the same reasons as claim 25.

Claim 36 is rejected for the same reasons as claim 26.

Claim 37 is rejected for the same reasons as claim 27.

Claim 38 is rejected for substantially the same reasons as claim 28.

Claim 39 is rejected for substantially the same reasons as claim 29.

Claim 40 is rejected for the same reasons as claim 30.

Claim 41 is rejected for the same reasons as claim 31.

Claim 42 is rejected for the same reasons as claim 32.

Claim 43 is rejected for the same reasons as claim 33.

Claim 44 is rejected for the same reasons as claim 34.

As per claim 45, <u>Apgar</u> (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 14;

FIG. 16; col. 4, ll. 24-61; col. 6, ll. 9-21; col. 6, ll. 46-62; and col. 1, ll. 53-58) shows

elements that suggest an "Apparatus for managing a real estate unit from a remote

location, such apparatus comprising: a remote processor adapted to access a server from

a remote location through a website of the server; a website adapted to download a

<u>webpage containing a</u> set of options regarding the managing of the real estate unit from

the website to the remote location; a cursor adapted to select at least one of the options

<u>thereby providing a selected option of the set of options</u>; . . . <u>the</u> applications program

<u>within the server</u> adapted to execute the uploaded selected option."

<u>Apgar</u> lacks an explicit recitation of "a remote processor adapted to access a

server from a remote location through a website of the server; a website adapted to

download a <u>webpage containing a</u> set of options regarding the managing of the real estate

unit from the website to the remote location . . . an applet within the remote processor

adapted to upload <u>an identifier of an application program associated with</u> the selected

option from the remote location to the server. . . ." even though, <u>Apgar</u> (col. 6, ll. 42-44)

suggests same.

Keithley (col. 12, ll. 22-58) discloses: *"The instant system allows the flexibility to incorporate any of the current, as well as the future, technologies."*

Keithley (col. 3, ll. 30-67; col. 4, ll. 62-67; col. 9, ll. 4-27; col. 11, ll. 1-10; and col. 12, ll. 22-58) shows elements that suggest "a remote processor adapted to access a server from a remote location through a website of the server. . . ." In this case, the Examiner interprets the disclosure of Keithley (col. 12, ll. 22-58) as suggesting web communications.

Keithley proposes remote server modifications that would have applied to the method of Apgar. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add the modifications taught by Keithley to Apgar, because implementation of such modifications would have provided *"a method of acquiring and displaying real estate information. . . ."* (see Keithley col. 4, ll. 10-25).

Forrest (col. 5, ll. 10-24; FIG. 1; and FIG. 13) shows *"LAN 12 may be implemented as a distributed network. . . ."* It would have been obvious to one of ordinary skill in the art at the time of the invention that *"LAN 12 may be implemented as a distributed network. . . ."* would have been selected in accordance with "a website of the server. . . ." because it was well known in the art at the time of the invention that a website was associated with the Internet which is a distributed network. Therefore, Furthermore, Forrest (col. 5, ll. 10-24; col. 2, ll. 55-67; FIG. 1; and FIG. 13) proposes website modifications that would have applied to the method of Apgar. It would have been obvious to one of ordinary skill in the art at the time of the invention to add the

website modifications of the method of Forrest to the method of Apgar because such

modifications would have provided *"the ability to closely track homes. . . ."* (See

Forrest (col. 2, ll. 55-67).

Apgar does not explicitly show "an applet within the remote processor adapted

to upload an identifier of an application program associated with the selected option from

the remote location to the server; and the applications program within the server adapted

to execute the uploaded selected option."

Hunt (col. 5, ll. 55-60) discloses: *"automatically take the user to a particular web*

page and then cause a Java applet or ActiveX control to be executed."

Hunt (col. 5, ll. 55-60; FIG. 2; FIG. 3; FIG. 4; FIG. 6; col. 4, ll. 17-28; col. 5, ll.

50-60; col. 6, ll. 31-44; col. 6, ll. 60-67; and col. 7, ll. 1-6) shows elements that suggest

"an applet within the remote processor adapted to upload an identifier of an application

program associated with the selected option from the remote location to the server; and

the applications program within the server adapted to execute the uploaded selected

option."

Hunt proposes applet modifications that would have applied to the method of

Apgar. It would have been obvious at the time the invention was made to a person having

ordinary skill in the art to add the modifications taught by Hunt to Apgar, because

implementation of such modifications would have provided *"users with coherent means*

for filtering what information is received and intelligently responding to the

information. . . ." (see Hunt (col. 4, ll. 17-28).

Apgar lacks an explicit recitation of: "managing a real estate unit by a real estate

manager from a remote location . . . a website provided for use for use by the real estate

manager in managing the real estate unit . . . a remote processor used by the real estate

manager to access a server . . . the website of the server provided for use by the real estate

manager. . . ."

Meyer (the ABSTRACT; FIG. 1; FIG;. 3; FIG. 4; FIG. 5; col. 1, ll. 33-67; col. 2,

ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; and col. 7, ll. 1-45)

shows elements that suggest:"managing a real estate unit by a real estate manager from a

remote location . . . a website provided for use for use by the real estate manager in

managing the real estate unit . . . a remote processor used by the real estate manager to

access a server . . . the website of the server provided for use by the real estate

manager. . . ."

Meyer (the ABSTRACT; FIG. 1; FIG;. 3; FIG. 4; FIG. 5; col. 1, ll. 33-67; col. 2,

ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; and col. 7, ll. 1-45)

proposes remote website browser modifications that would have applied to the

system/method of Apgar.   It would have been obvious to a person of ordinary skill in the

art at the time of the invention to combine the disclosure of Meyer with the teaching of

Apgar, because such combinaiton would have provided means for *"facility management*

systems via the Internet. . . ." (see Meyer (col. 1, ll. 60-65)).

As per claim 46, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the method of claim 45. (See the rejection of claim 45 supra).

Apgar does not explicitly show "the application program . . . comprises a comparator adapted to compare an identifier of an authorized user and granting access to a set of files when a match is found."

Keithley (col. 13, ll. 25-42; col. 1, ll. 33-45; col. 9, ll. 38-59; and col. 11, ll. 11-16) discloses elements that suggest "the application program . . . comprises a comparator adapted to compare an identifier of an authorized user and granting access to a set of files when a match is found."

Keithley proposes user ID modifications that would have applied to the method of Apgar. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add the modifications taught by Keithley to Apgar, because implementation of such modifications would have provided *"a method of acquiring and displaying real estate information. . . ."* (see Keithley col. 4, ll. 10-25).

As per claim 47, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the method of claim 45. (See the rejection of claim 45 supra).

Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) shows elements that suggest "uploading monetary data from a designated financial institution to the server."

Apgar does not explicitly show "uploading monetary data from a designated financial institution to the server. . . ." even though, Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) suggests "uploading monetary data from a designated financial institution to the server. . . ."

Keithley (col. 2, ll. 10-22; col. 7, ll. 9-17; and col. 10, ll. 20-28) discloses elements that suggest "uploading monetary data from a designated financial institution to the server. . . ."

Keithley proposes monetary modifications that would have applied to the method of Apgar. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add the modifications taught by Keithley to Apgar, because implementation of such modifications would have provided *"a method of acquiring and displaying real estate information. . . ."* (see Keithley col. 4, ll. 10-25).

As per claim 48, Apgar in view of Keithley, Forrest, Hunt and Meyer shows the method of claim 48. (See the rejection of claim 48 supra).

Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11; FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll. 24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) shows elements that suggest "a memory adapted to store the monetary data."

Apgar does not explicitly show "a memory adapted to store the monetary

data. . . ." even though, Apgar (FIG. 1; FIG. 6; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11;

FIG. 12; FIG. 14; FIG. 16; col. 3, ll. 50-67; col. 13, ll. 44-47; col. 22, ll. 20-30; col. 4, ll.

24-61; col. 6, ll. 9-21; and col. 6, ll. 46-62) suggests "a memory adapted to store the

monetary data."

Keithley (col. 2, ll. 10-22; col. 7, ll. 9-17; and col. 10, ll. 20-28) discloses elements

that suggest "a memory adapted to store the monetary data."

Keithley proposes storage modifications that would have applied to the method of

Apgar. It would have been obvious at the time the invention was made to a person having

ordinary skill in the art to add the modifications taught by Keithley to Apgar, because

implementation of such modifications would have provided *"a method of acquiring and*

displaying real estate information. . . ." (see Keithley col. 4, ll. 10-25).

RESPONSE TO ARGUMENTS

7.   Applicant's arguments filed 12/10/2002 (Amendment D, paper#10) have been fully

considered but they are not persuasive for the following reasons:

Applicant's arguments opine that amendments to claims 45-48 of the instant

application have obviated the Non-Statutory Double Patenting Rejection of claims 45-48.

This is not the case.

Upon reconsideration of the instant application and an automated prior art update

search, it is found that the claim language of claims 45-48 read on the Gale 6,334,107 in

view of the disclosure of the prior art reference to <u>Meyer</u> cited but not relied upon in a

prior Office Action (paper# 4, p 22); therefore, the non-statutory obviousness type double

patenting rejections of claims 45-48 are maintained.

In response to Applicant's argument that the 35 U.S.C. §103 rejections,

Applicant's arguments have been fully considered but they are not persuasive for the

following reasons:

Applicant's arguments Amendment D (paper#10, pp. 5-11) against the 35 U.S.C.

§103 rejections of claims 25-48 are moot based on the new grounds of rejection

necessitated by Applicant's amendment.   (See the 35 U.S.C. §103 rejections of claims 25-

48 <u>supra</u>).

However, assuming arguendo, that Applicant's arguments were not moot, it is well

settled in the law, that the test for obviousness is not whether the claimed invention must

be expressly suggested in any one or all of the references. Rather, the test is what the

combined teachings of the references would have suggested to those of ordinary skill in

the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, it is well settled in the law that obviousness can only be

established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Also, it is well settled in the law that "It is not necessary that the prior art suggest

the combination to achieve the same advantage or result discovered by the applicant. *In*

re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972). . . ." (See MPEP 2144

RATIONALE DIFFERENT FORM APPLICANT'S IS PERMISSIBLE (August 2001) p.

2100-127

In this case, and throughout the prior Office Action the obviousness rejections

have relied upon the knowledge generally available to one of ordinary skill in the art and

the prior Office Action has detailed with particularity where the features of claims are

suggested in the prior art references and where there are teachings in the references to

modify and /or combine the references to derive the present invention.

For the reasons stated above, claims 25-48 of the instant application stand

rejected.

ACTION MADE FINAL

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Furthermore, this is a continuing prosecution of Applicant's earlier Application No. 09/867,207. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, THIS ACTION IS MADE FINAL even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

CONCLUSION

8.   Any response to this action should be mailed to:

        Box AF

        Commissioner of Patents and Trademarks

        Washington, D.C. 20231

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.
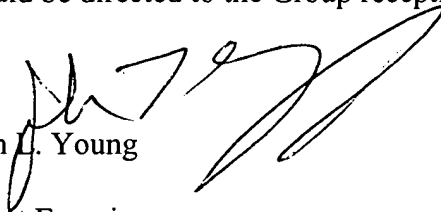
Art Unit: 3622

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John J. Young

Patent Examiner

(Temporary Full Signatory Authority)

February 24, 2003